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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,455	12/30/1999	KAZUHIRO FUJII	SIC-99-047	7874

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DELAND LAW OFFICE
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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/476,455

Applicant(s)

FUJII, KAZUHIRO

Examiner

Naschica S Morrison

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,12-19 and 21-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,17,19,27,28 and 30-43 is/are allowed.
- 6) ☒ Claim(s) 10,12-15,18,21-25,29 and 44-47 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the fourth Office Action for serial number 09/476,455, Bell Crank Assembly and Mounting Bracket for a Bicycle Hub, filed on December 30, 1999. Claims 10, 12-19 and 21-47 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/12/02 has been entered.

Claim Objections

Applicant is advised that should claim 12 be found allowable, claim 21 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Based on the specification, the bell crank mounting member includes the first and second ears. Claim 12 recites a first mounting ear and claim 21

Art Unit: 3632

also recites a first mounting ear. The examiner believes the claims are directed toward the same mounting ear. Clarification and/or correction is suggested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 10,12-15,18, 21-25, 29, and 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,257,533 to Pei et al. (Pei). Regarding claims 10, 12-15,18, 21-25, 29, and 44-47, Pei discloses a one-piece mounting bracket (Fig. 2 - see marked-up copy attached to previous Office action) comprising: a mounting bracket portion (A) having an upwardly facing surface (top surface of A), an inclined transition portion (B) extending downwardly from the mounting bracket portion (A), a rear mounting portion (C, D, E) defining an opening (42) therein, a mounting member (372 generally) disposed on the transition portion (B) and including first and second opposed mounting ears (36) projecting in an up-down/lateral direction (oriented as shown in Fig. 2 wherein the top surface is indicated generally by 38 and 41) therefrom, and a front

Art Unit: 3632

mounting member (F) one-piece with and extending perpendicular to and downward from the mounting bracket portion (A).

Claims 10, 14, 15, 18, 44, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,184,993 to Swenson. Regarding claims 10, 14, 15, 18, and 44, Swenson discloses a one-piece mounting bracket (Fig. 5 ~ as viewed when rotated approx. 90 degrees clockwise) comprising: a mounting bracket portion (5), an inclined transition portion (3) extending downwardly from the mounting bracket portion (5), a rear mounting portion (2) extending from the inclined transition portion (3), and a mounting member including a first mounting ear (6) projecting in a lateral direction. Regarding claim 47, in the alternative, Swenson discloses the mounting bracket (Fig. 3 ~ as viewed when rotated approx. 90 degrees clockwise) comprising: a mounting bracket portion (5) having an upwardly facing surface (as at 5a), an inclined transition portion (3) extending downwardly from the mounting bracket portion (5), a rear mounting portion (2) extending from the inclined transition portion (3) and including an opening (6a) within a surface that faces in a lateral direction, and a mounting member (6) disposed on the inclined transition portion (3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3632

Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson. Regarding claims 45 and 46, Swenson discloses the mounting bracket as applied above, but does not disclose the mounting member including a second ear disposed opposite the first mounting ear (6). However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mounting bracket by including a second mounting ear disposed along the transition member (3) and opposite the first mounting ear since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Response to Arguments

Applicant's arguments with respect to claims 10, 12-15, 18, 21-25, 29, and 44-47 have been considered but are moot in view of the new grounds of rejection.

Allowable Subject Matter

Claims 16, 17, 19, 27, 28, and 30-43 are allowed.

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 26, although the prior art of record discloses many of the


Art Unit: 3632


limitations of the claim, it fails to further teach/suggest the surface of the rear frame mounting bracket portion having an opening that faces laterally.

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
8/6/02


ANITA KING
PRIMARY EXAMINER